S.B. Civil Misc. Appeal No.457/2005

Hanuman Prasad and another

vs.

Municipal Council, Bikaner Lal and others.

Date : 28.7.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. BK Vyas, for the appellant.

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Heard learned counsel for the appellant.

The appellant is aggrieved against the order dated 7.12.2004 by which the trial court partly allowed the plaintiff's application for grant of temporary injunction.

According to learned counsel for the appellant, the trial court held that some of the construction was made by the defendants subsequently and that construction of wall is beyond the patta land of the defendants, therefore, according to learned counsel for the appellant, the trial court should have passed the order of demolition of the said wall.

I have considered the submission of learned counsel for the appellant and perused the reasons given in the impugned order.

The trial court carefully considered the facts of the case and took note of the facts relating to the erlier

litigation and the defendant admitted that they have raised construction only which was permissible in suit no.109/2000 and the defendants admitted that they are not raising any construction over the land of open chowk shown in yellow colour in the map.

In view of the above, the trial court restrained the defendants from raising construction over the land shown in yellow colour in the map.

In view of the above, I do not find that the court below has committed any error of fact or error of law in passing the impugned award.

Accordingly, this appeal is dismissed.

(PRAKASH TATIA), J.

S.Phophaliya